

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLIAM H. BRANDSTATT,

Plaintiff,

vs.

CLARK, et al.,

Defendants.

1:21-cv-01600-AWI-GSA (PC)

**ORDER VACATING FINDINGS AND
RECOMMENDATIONS ENTERED ON
JANUARY 5, 2022
(ECF No. 8.)**

**ORDER GRANTING MOTION FOR
EXTENSION OF TIME
(ECF No. 10.)**

**ORDER GRANTING REQUEST TO
FILE DOCUMENTS BY MAIL**

**FORTY-FIVE DAY DEADLINE TO
FILE AMENDED COMPLAINT AND
APPLICATION TO PROCEED IN
FORMA PAUPERIS**

Plaintiff is a prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. On November 3, 2021, the court issued an order requiring Plaintiff to submit an application to proceed *in forma pauperis* or pay the \$402.00 filing fee in full, within thirty days. (ECF No. 2.) On November 30, 2021, the court issued an order requiring Plaintiff to file his First Amended Complaint within thirty days. (ECF No. 5.) The thirty-day deadlines had expired and Plaintiff failed to file his First Amended Complaint, submit an application to proceed *in forma pauperis*, or pay the filing fee.

On January 5, 2022, the court entered findings and recommendations, recommending that this case be dismissed for Plaintiff's failure to comply with the court's orders. (ECF No. 8.) On

January 5, 2022, Plaintiff filed a motion for extension of time to file the First Amended Complaint. (ECF No. 10.) On January 14, 2022, Plaintiff filed objections to the findings and recommendations. (ECF No. 11.) Plaintiff requests the court not to dismiss this case explaining his efforts to comply with the court's orders and asserting that his delay is caused by restricted movement at the prison and other conditions out of his control.

Based on Plaintiff's objections, the court finds good cause to vacate the findings and recommendations of September 21, 2017, and grant Plaintiff's motion for extension of time, allowing him forty-five days in which to file the First Amended Complaint and his application to proceed *in forma pauperis*.

Plaintiff has also requested leave to file his documents by mail. Good cause appearing, Plaintiff's request shall be granted. Plaintiff may file his First Amended Complaint and application to proceed *in forma pauperis* by mail.¹

In light of the foregoing, IT IS HEREBY ORDERED that:

1. The findings and recommendations entered on January 5, 2022, are VACATED;
2. Plaintiff's motion for extension of time filed on January 5, 2022, is GRANTED;
3. Plaintiff is granted forty-five days from the date of service of this order in which to file his First Amended Complaint and his application to proceed *in forma pauperis*;
4. Plaintiff's request to file his documents by mail is GRANTED; and
5. Plaintiff's failure to comply with this order may result in a recommendation that this case be dismissed.

IT IS SO ORDERED.

Dated: January 20, 2022

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

¹ Ordinarily, only the initial complaint is required to be filed using e-filing. Plaintiff should make it clear on the face of the First Amended Complaint that it is not his initial complaint.